



INTEROFFICE CORRESPONDENCE

DATE January 13, 1994

TO: H. P. Mann, General Manager, Bldg. 111, X4361

FROM:  P. W. Swenson, Program Integration, T130D, X7211

SUBJECT: STATUS OF INTERAGENCY AGREEMENT (IAG) REEVALUATION AND MEETING
MINUTES FOR JANUARY 12TH AND 13TH, 1994 - PWS-012-94

Attached are minutes from January 12 and 13, 1994, meetings between the Department of Energy Rocky Flats Office, the Environmental Protection Agency, Region VIII, and the Colorado Department of Health, concerning reevaluation of the existing Interagency Agreement. A further meeting on "key principles" is scheduled for January 14, 1994. Minutes of that meeting will be forwarded to you and all EG&G team members following the meeting.

ahb

Attachments:
As Stated

cc
W. S. Busby
R. D. Copp
T. DeMass
R. E. Fiehweg
M. J. Freehling
E. M. Lee
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**INTERAGENCY AGREEMENT (IAG)
MEETING ATTENDEES
January 12, 1994**

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Peter Ornstein
Lou Johnson
Martin Hestmark

COLORADO DEPARTMENT OF HEALTH (CDH)

Joan Sowinski
Gary Baughman
Dan Miller
Joe Schieffelin

DEPARTMENT OF ENERGY (DOE)

Leanne Smith
Raymond Greenberg
Anne Taylor
Joe Weinand
Dave Brockman
Mell Roy

EG&G ROCKY FLATS, INC.

Peter Swenson
David Ward

- Sharon Kercher of the EPA acted as facilitator
- The Citizens Advisory Board was invited but was unable to attend

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EG&G ROCKY FLATS, INC.

Peter Swenson

- Sharon Kercher of the EPA acted as facilitator
- Ginger Swartz of the Citizens Advisory Board (CAB) attended

**AGENDA
January 13, 1994**

1. Review of Principles
2. Wrap-up

**IAG
MEETING MINUTES
January 13, 1984**

A summary review of progress to date and discussion of action items was held.

- #17 DOE will not accept enforceable milestones in the agreement relative to expanding permitted storage space as a prerequisite to renegotiation.

Further discussion was held on the group's procedure for elevating the issue to a negotiation between the principals. All parties agreed that the waste management issue needs resolution CDH proposed, and all parties agreed that this issue must be resolved before milestones and schedules for activities can be achieved.

Alternate Language was proposed for #17:

Waste storage issues, including a schedule for expansion of permitted interim waste storage, must be resolved prior to negotiating revised schedules and milestones.

#17 was agreed to by all parties as proposed in the alternate language.

The Colorado Attorney General's office expressed the view that CDH expects enforceable milestones on waste storage in some document, not necessarily the IAG. There is a possibility, according to Mell Roy that this could be included in the Administrative Order, which will result from resolution of the Sierra Club Lawsuit

- The issue relative to EG&G accountability was discussed.

The principle was accepted as:

EG&G must be held accountable to all parties for implementing the revised agreement

Lou Johnson of EPA stated that an Administrative Order parallel to the IAG, with stipulated fines and penalties may be issued to EG&G.

- Existing IAG will remain in effect, including all procedural and penalty components, until specifically superseded by a revised and executed final IAG. During the negotiation period, EPA/CDH may continue to assess stipulated penalties within terms of the present agreement, and DOE may dispute such assessment, pursuant to the IAG

This was accepted by all parties.

- DOE must pay significant penalty for violations of existing IAG.
- Prior to signing a new agreement, DOE will pay a significant monetary penalty for current violations and unavoidable future violations of the existing agreement.

DOE stated they cannot agree to a principle, which states that they will pay significant monetary penalties.

All parties agreed to eliminate these issues.

- Interim relief for DOE on milestone schedules and other compliance issues related to the IAG must be accompanied by DOE schedule commitments on short and long-term issues such as: full compliance with RCRA/CHWA, cleanup, removal of stored waste from RFP, decommissioning completion, etc. DOE must affirm the Administration's commitment to requesting full funding for the IAG requirements after the interim relief period (2-3 years).

This was tabled for discussion at the next meeting.

- Ginger Swartz gave a report on comments received from interested public individuals on public participation.
 1. Opinions were expressed that 4 months is inadequate time to insure public participation in IAG renegotiation.
 2. EG&G and Rocky Flats Local Impacts Initiative representatives expressed the opinion that CAB should not be the sole local point for public involvement on reevaluation and/or renegotiation of the IAG.
 3. The CAB office expressed the view that CAB has been set up as the appropriate local point for the IAG

An ad hoc focus group consisting primarily of members from various interest groups has sent a memo on this subject to the three principals.

It was agreed by all parties that the three principals would discuss this issue on January 18, 1994, and they principle #6 still stands as originally agreed to.

- It is essential for the State of Colorado to maintain its oversight capacity at the Rocky Flats Plant. To do this, the Agreement in Principle must be extended for at least five year at current levels of funding (\$3,700,000) plus inflation.

DOE suggested that they send a letter to CDH embodying this commitment. EPA felt that they also had an outstanding issue to fund EPA Full Time Equivalents. The issue was tabled for discussion on January 14, 1994 and January 18, 1994.

- DOE must continue to conduct necessary inspections of all radioactive, hazardous, and mixed wastes stored at Rocky Flats Plant to assure safety and proper management. Any issues regarding the proper management of mixed residues will be addressed in accordance with the appropriate provisions of the Residue Agreements (DOE modification to 12/22/ version)

This was accepted by all parties.

- All parties agreed that there is a great deal of uncertainty about the definitions of and plans for D&D and Transition, EPA suggested the following wording:

D&D, transition, economic development, and waste management potentially impact successful implementation of the IAG, and a common understanding must be established at the beginning of negotiations

This was accepted by all parties.

- DOE must demonstrate a firm commitment to accomplish the effort agreed upon within the agreement. This commitment must result in specific management improvements, firm financial commitments for IAG implementation in future years, and penalties for non-compliance.

The following wording was proposed

A revised agreement must define and reflect a firm commitment by DOE to implement the agreement, a firm fiscal commitment, direct and meaningful EPA/CDH involvement in the budget development process, and specified management improvements. Any revised or new schedules must be coordinated with firm DOE fiscal commitments.

This was accepted by all parties.

Wrap-Up

The four remaining issues are:

- The agreement should allow flexibility to accomplish efficient cleanup at Rocky Flats. It must also remain an effective enforcement vehicle. Negotiations should pursue some type of milestone schedule that allows for periodic review of the milestones while retaining some milestone schedule framework. The agreement also needs to include a mechanism to account for changing circumstances,

- Future site use and cleanup are closely intertwined. Cleanup must be consistent with the projected future use of the site and vice versa. A future site use determination process that avoids the implementation of unsubstantiated or conservative risk criteria, and unrealistic cleanup goals, should be included in the amended agreement.
- Recognition that the Rocky Flats Plant is a National Priority List site and the degree and extent of application of the CERCLA process to specific buildings, structures, and equipment will be subject to negotiation.
- Long-term storage of off-site wastes from other DOE facilities is not planned at the Rocky Flats Plant, except as specifically provided by orders or agreements pursuant to Federal Facility Compliance Act requirements or the National Conversion Pilot Program. The use of limited quantities of wastes from other sites for technology development will be subject to regulatory approval.

The next meeting will be held at EPA, 8:00-11:30 a.m., Eagle Room, 6th Floor, North Tower.